

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

MICHAEL NELSON,

Plaintiff,

v.

CAPTAIN TAYLOR, *et al.*,

Defendants.

No. 4:23-CV-00273

(Chief Judge Brann)

ORDER

AND NOW, this 3rd day of January 2024, in accordance with the accompanying Memorandum, **IT IS HEREBY ORDERED** that:

1. Plaintiff's First Amendment retaliation claim against defendant Cespedes is **DISMISSED** without prejudice pursuant to 28 U.S.C. § 1915A(b)(1) for failure to state a claim upon which relief may be granted.
2. Plaintiff's Eighth Amendment failure-to-intervene claims are **DISMISSED** without prejudice as to all Defendants pursuant to 28 U.S.C. § 1915A(b)(1) for failure to state a claim upon which relief may be granted.
3. Plaintiff, if desired, may file a second amended complaint in accordance with the accompanying Memorandum within 21 days of the date of this Order.
4. If no second amended complaint is timely filed, dismissal will convert to dismissal with prejudice and the Court will close this case.

BY THE COURT:

s/ Matthew W. Brann

Matthew W. Brann
Chief United States District Judge